

### **REMARKS**

Reconsideration and withdrawal of the rejections set forth in the Office Action are respectfully requested in view of this amendment and the following reasons. By this amendment, claims 1-3, 5, 6, 8, and 9 have been amended, and new claims 13-25 have been inserted. Accordingly, claims 1-25 are pending in this application.

Claims 1-3, 5, 6, 8, and 9 have been amended to remove therefrom narrow features that fell within broader features in the same claims, respectively. Claim 1 has been further amended to clarify the claimed features of the skeleton and surface region: Support for this amendment may be found at least page 6, lines 17-19 of the present application as published and Figs. 1 and 3a.

New claims 13-25 depend on claims 1-3, 5, 6, 8, or 9 and respectively contain the features removed from claims 1-3, 5, 6, 8, and 9 by this amendment.

Accordingly, it is respectfully submitted that the above amendments introduce no new matter within the meaning of 35 U.S.C. §132.

Entry of the Amendment is proper under 37 C.F.R. §1.111 because it (a) places the application in *prima facie* condition for allowance for the reasons discussed herein; and (b) does not raise new issues requiring further search and/or consideration by the Examiner because similar subject matter was previously considered by the Examiner and thus further consideration and/or search by the Examiner is not warranted. For at least these reasons, entry of the present Amendment is therefore respectfully requested. Accordingly, Applicant requests reconsideration and timely withdrawal of the pending rejections for the reasons discussed below.

#### ***Rejections Under 35 U.S.C. §112, Second Paragraph***

Claims 1-9 stand rejected under 35 U.S.C. §112, second paragraph as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to the 1<sup>st</sup> Reason for Rejection (Office Action, Page 2)

The Examiner contends that, in claim 1, the term “continuously changing weight quota” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Applicant respectfully disagrees at least because the specification provides the standard. The specification, at page 7, lines 28-33, describes that “Figure 3d shows *the density quota K* of the different fibers and the melted on fibrous material. ... Curve b shows an exemplary density distribution of the melted on microfibrinous material and demonstrates that *its weight quota has a continuously changing course*.” (emphasis added). From this description, along with Fig. 3d, one of ordinary skill in the art would easily conceive that the weight quota of the melted-on microfibrinous material has a continuously changing course. Accordingly, Applicant respectfully submits that “fibrous skeleton (2) has a *continuously changing weight quota* of melted-on microfibrinous material (7)” (emphasis added) of claim 1 is fully supported by the specification and reasonably apprises a skilled artisan of the scope of the invention.

As to the 2<sup>nd</sup> Reason for Rejection (Office Action, Page 2)

The Examiner contends that, in claim 1, the term “predetermined” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Applicant respectfully disagrees at least because the specification provides the standard. The specification, at page 7, lines 14-19, describes that “Figure 3b shows an exemplary curve for the values of the air flow resistance  $R_f$  in dependency on the depth  $d$  of the inventive nonwoven. Characteristic values for the air flow resistance in the surface region 4 lie *between 500 to 5000  $Nsm^{-3}$* , in the base region 10 *between 200 and [10,000] or more  $Nsm^{-3}$* .” (emphasis added).

Furthermore, the specification, at page 7, lines 20-26, describes that “[t]he curve shown in

Figure 3c illustrates the dependency of the bending stiffness B upon the depth d by way of example. ... In an inventive nonwoven, the values for the bending stiffness can vary *between 0.005 and 10.5 Nm*; in particular these values are *between 0.025 to 6.0 Nm*.” (emphasis added).

From these descriptions, along with Figs. 3b and 3c, one of ordinary skill in the art would easily conceive that the air flow resistance  $R_t$  and bending stiffness B have predetermined values within the scope of the invention.

Therefore, Applicant respectfully submits that the “*predetermined* air flow resistance” and “*predetermined* bending stiffness” (emphasis added) of claim 1 are fully supported by the specification and reasonably apprise a skilled artisan of the scope of the invention.

*As to the 3<sup>rd</sup> Reason for Rejection (Office Action, Pages 2-4)*

The Examiner contends that claims 1-3, 5, 6, 8, and 9 are allegedly indefinite because a broad range or limitation together with narrow range or limitation that falls within the broad range or limitation are recited in the same claim.

By this amendment, claims 1-3, 5, 6, 8, and 9 have been amended to remove therefrom the narrow features that fell within the broader features, and claims 13-25 have been provided to include the removed features of claims 1-3, 5, 6, 8, and 9.

Accordingly, Applicant respectfully submits that this reason for rejection has been overcome.

*As to the 4<sup>th</sup> Reason for Rejection (Office Action, Page 4)*

The Examiner contends that claim 1 is allegedly indefinite because the porous fibrous skeleton (2) and surface region (4, 10), and melt-on microfibrinous material (7) is indefinite as it is unclear which figure the claim is referring to and does not specifically describe the claim limitation without reference to the figures submitted with the application. The Examiner also contends that the claimed structure of the skeleton and surface region is allegedly not clearly set forth in the

claims.

Applicant respectfully asserts that this reason for rejection has been overcome by the amendment to claim 1.

Amended claim 1 recites, *inter alia*:

which fibrous skeleton (2) has a continuously changing weight quota of melted on melted-on microfibrinous material (7) in a front and/or rear surface region (4, 10), *a region of the fibrous skeleton (2) comprising said melted-on microfibrinous material (7)* (emphasis added)

Support for this amendment may be found at least page 6, lines 17-19 of the present application and Figs. 1 and 3a. At least in view of this amendment, the claimed structure of the skeleton and surface region is clearly set forth in claim 1. Furthermore, Applicant respectfully submits that the porous fibrous skeleton (2), surface region (4, 10), and melt-on microfibrinous material (7) are referring to Figs. 1-4, which illustrate an embodiment of the invention in different points of view.

Accordingly, Applicant respectfully submits that this reason for rejection has been overcome, at least in view of this amendment.

*As to the 5<sup>th</sup> Reason for Rejection (Office Action, Pages 4-5)*

The Examiner contends that claim 4 is allegedly indefinite because there is insufficient antecedent basis for “non-melted microfibers” in claim 4 as claim 1 recites the limitation of “melted-on microfibrinous material.”

Applicant respectfully disagrees because “non-melted microfibers” of claim 4 does not need an antecedent basis in claim 1. In other words, claim 4 requires the nonwoven (1) to comprise *both of the melt-on microfibers (7) and non-melt on microfibers (9)* (See, Application, page 8, lines 5-7; Fig. 4).

Accordingly, Applicant respectfully submits that this reason for rejection has been overcome.

***Rejections Under 35 U.S.C. §102***

Claims 1, 2, 5-9, and 11 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 5,773,375 issued to Swan et al. (“Swan”) (6<sup>th</sup> to 13<sup>th</sup> Reasons for Rejection).

Applicant respectfully submits that the rejections of claims 1, 2, 5-9, and 11 must be withdrawn because the Office Action fails to establish a prima facie case of anticipation. “Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” W.L. Gore & Assocs. V. Garlock, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Further, “when evaluating the scope of a claim, every limitation in the claim must be considered. USPTO personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered.” U.S.P.T.O. Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, page 9, October 26, 2005 (emphasis in original). As the Federal Circuit stated, “[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Here, in view of this framework, Applicant respectfully submits that it is clear that Swan fails to disclose every claimed feature of claims 1, 2, 5-9, and 11. Specifically, claim 1, as amended, recites, *inter alia*:

which fibrous skeleton (2) has a continuously changing weight quota of melted on melted-on microfibrinous material (7) in a front and/or rear surface region (4, 10), a region of the fibrous skeleton (2) comprising said melted-on microfibrinous material (7) (emphasis added)

The Office Action does not identify whether these features of claim 1 are disclosed by

Swan (*See*, Office Action, page 5, 6<sup>th</sup> Reason for Rejection). Actually, at least these features of claim 1 are not taught or suggested by Swan.

Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of claim 1. Claims 2, 5-9, and 11 depend from claim 1 and are allowable at least for this reason. Since none of the other prior art of record discloses or suggests all the features of the claimed invention, Applicant respectfully submits that independent claim 1, and all the claims that depend therefrom, are allowable.

***Rejections Under 35 U.S.C. §103***

Claims 5, 8, and 9 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Swan (11<sup>th</sup> to 13<sup>th</sup> Reasons for Rejection).

Applicant respectfully submits that claims 5, 8, and 9 allowable over Swan at least because they depend from allowable claim 1.

Claims 3 and 10 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Swan in view of U.S. Patent No. 7,195,814 issued to Ista et al. ("Ista") (14<sup>th</sup> and 15<sup>th</sup> Reasons for Rejection).

Claims 3 and 10 depend from claim 1 and Ista fails to cure the deficiencies of Swan noted above with regard to claim 1. Ista discloses a microfiber-entangled product, but does not teach or suggest at least the features of claim 1 noted above. Hence, claims 3 and 10 are allowable at least because they depend from allowable claim 1.

Claim 12 stands rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Swan in view of U.S. Patent No. 6,756,332 issued to Sandoe et al. ("Sandoe") (16<sup>th</sup> Reason for Rejection).

Claim 12 depends from claim 1 and Sandoe fails to cure the deficiencies of Swan noted

above with regard to claim 1. Sandoe discloses a laminated structure where a core layer is sandwiched between two stiffening layers, but fails to disclose the features of claim 1 noted above. Hence, claim 12 is allowable at least because it depends from allowable claim 1.

Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. §103(a) rejection of claims 3, 5, 8-10, and 12. Claims 3, 5, 8-10, and 12 depend from claim 1 and are allowable at least for this reason. Since none of the other prior art of record, whether taken alone or in any combination, discloses or suggests all the features of the claimed invention, Applicant respectfully submits that independent claim 1, and all the claims that depend therefrom, are allowable.

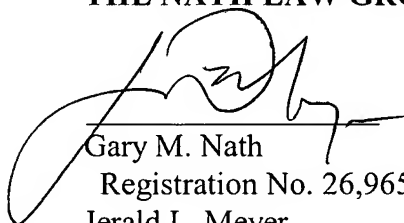
**CONCLUSION**

Applicant believes that a full and complete response has been made to the pending Office Action and respectfully submits that all of the grounds for rejection have been overcome or rendered moot. Accordingly, Applicant respectfully submits that all pending claims are allowable and that the application is in condition for allowance.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative at the number below to expedite prosecution.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,  
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